

United States Postal Service

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the past, provided the costs are not associated with particular security issues related to a provider's Postage Evidencing System or supporting infrastructure, or with the start-up or implementation of a new plant or of a new or substantially changed manufacturing process.

(1) When conducting an inspection outside the continental United States, the Postal Service will make every effort to combine the inspection with other inspections in the same general geographic area in order to enable affected providers to share the costs. The Postal Service team conducting such inspections will be limited to the minimum number necessary to conduct the inspection. All air travel will be contracted for at the rates for official government business, when available, under such rules respecting class of travel as apply to those Postal Service representatives inspecting the facility at the time the travel occurs.

(2) If political or other impediments prevent the Postal Service from conducting security evaluations of Postage Evidencing System facilities in foreign countries, Postal Service approval of the activities conducted in such facilities may be suspended until such time as satisfactory inspections may be conducted.

(d) As the provider bears the ultimate responsibility to ensure customer information will not be compromised at any domestic or off shore locations, the provider (as well as its agent operating domestic or off shore locations) will not cause or permit data to be released other than for the operation of the third-party location. The provider shall notify its customer that data relating to its systems is being housed by a third-party location, and shall provide a copy thereof to the Postal Service of such notice to its customers. To the extent that any unauthorized release takes place, the vendor shall notify the Postal Service immediately upon discovery of any unauthorized use or disclosure of data or any other breach or improper disclosure of data of this agreement by the provider (as well as its agent operating the third-party location) and will cooperate with the Postal Service in every reasonable way to help the Postal Service regain

possession of the data and prevent its further unauthorized use or disclosure. In the event that the Postal Service cannot regain possession of the data or prevent its further unauthorized use or disclosure, the provider shall indemnify the Postal Service from damages resulting from its (or such third-party) actions.

(e) Have, or establish, and keep under its active supervision and control adequate facilities for the control, distribution, and maintenance of PES and their replacement or secure disposal or destruction when necessary and appropriate.

[71 FR 65733, Nov. 9, 2006, as amended at 76 FR 77149, Dec. 12, 2011]

§ 501.4 Changes in ownership or control, bankruptcy, or insolvency.

(a) Any person or entity authorized under § 501.2 must promptly notify the Postal Service when it has a reasonable expectation that there may be a change in its ownership or control including changes in the ownership of an affiliate which exercises control over its Postage Evidencing System operations in the United States. A change of ownership or control within the meaning of this section includes entry into a strategic alliance or other agreement whereby a third party either has access to data related to the security of the system or is a competitor to the Postal Service. Any person or entity seeking to acquire ownership or control of a person or entity authorized under § 501.2 must provide the Postal Service satisfactory evidence that upon completion of the contemplated transaction, it will satisfy the conditions for approval stated in § 501.2. Early notification of a proposed change in ownership or control will facilitate expeditious review of an application to acquire ownership or control under this section.

(b) Any person or entity authorized under § 501.2 must promptly notify the Postal Service when it has a reasonable expectation that there may be a change in the status of its financial condition either through bankruptcy, insolvency, assignment for the benefit of creditors, or other similar financial action. Any person or entity authorized under § 501.2 who experiences a

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change in the status of its financial condition may, at the discretion of the Postal Service, have its authorization under § 501.2 modified or terminated.

§ 501.5 Burden of proof standard.

The burden of proof is on the Postal Service in administrative determinations of suspension and revocation under § 501.6 and administrative sanctions under § 501.12. Except as otherwise indicated in those sections, the standard of proof shall be the preponderance-of-evidence standard.

§ 501.6 Suspension and revocation of authorization.

(a) The Postal Service may suspend and/or revoke authorization to manufacture and/or distribute any or all of a provider's approved Postage Evidencing System(s) if the provider engages in any unlawful scheme or enterprise, fails to comply with any provision in this Part 501, fails to implement instructions issued in accordance with any final decision issued by the Postal Service within its authority over Postage Evidencing Systems or if the Postage Evidencing System or infrastructure of the provider is determined to constitute an unacceptable risk to Postal Service revenues.

(b) The decision to suspend or revoke pursuant to paragraph (a) of this section shall be based upon the nature and circumstances of the violation (e.g. whether the violation was willful, whether the provider voluntarily admitted to the violation, or cooperated with the Postal Service, whether the provider implemented successful remedial measures) and on the provider's performance history. Before determining that a provider's authorization to manufacture and/or distribute Postage Evidencing Systems should be suspended or revoked, the procedures in paragraph (c) of this section shall be followed.

(c) Suspension or revocation procedures:

(1) Upon determination by the Postal Service that a provider is in violation of provisions of this part, or that its Postal Evidencing System poses an unreasonable risk to postal revenue, PT, acting on behalf of the Postal Service, shall issue a written notice of proposed

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suspension citing the specific conditions or deficiencies for which suspension of authorization to manufacture and/or distribute a specific Postage Evidencing System or class of Postage Evidencing Systems may be imposed. Except in cases of willful violation, the provider shall be given an opportunity to correct deficiencies and achieve compliance with all requirements within a time limit corresponding to the potential risk to postal revenue.

(2) In cases of willful violation, or if the Postal Service determines that the provider has failed to correct cited deficiencies within the specified time limit, PT shall issue a written notice of suspension setting forth the facts and reasons for the decision to suspend, and the effective date if a written defense is not presented as provided in paragraph (d) of this section.

(3) The notice shall also advise the provider of its right to file a response under paragraph (d) of this section. If a written response is not presented in a timely manner the suspension may go into effect. The suspension shall remain in effect for ninety (90) calendar days unless revoked or modified by PT.

(4) If, upon consideration of the defense as provided in paragraph (d) of this section, the Postal Service deems that the suspension is warranted, the suspension shall remain in effect for up to 90 days unless withdrawn by the Postal Service, as provided in paragraph (c)(5)(iii) of this section.

(5) At the end of the ninety (90) day suspension, the Postal Service may:

(i) Extend the suspension in order to allow more time for investigation or to allow the provider time to correct the problem.

(ii) Make a determination to revoke authorization to manufacture and/or distribute a Postage Evidencing System in part or in whole.

(iii) Withdraw the suspension based on identification and implementation of a satisfactory solution to the problem.

(d) The provider may present the Postal Service with a written defense to any suspension or revocation determination within thirty (30) calendar days of receiving the written notice (unless a shorter period is deemed necessary). The defense must include all